

Program Budget Comparison

The following table summarizes the total budget requested by the Governor for the agency by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2008	Approp. Fiscal 2009	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 08-09	Biennium Fiscal 10-11	Biennium Change	Biennium % Change
FTE	120.48	120.48	121.23	121.23	120.48	121.23	0.75	0.62%
Personal Services	6,313,406	6,924,954	6,938,075	6,953,800	13,238,360	13,891,875	653,515	4.94%
Operating Expenses	1,531,579	1,585,794	1,870,537	1,871,162	3,117,373	3,741,699	624,326	20.03%
Equipment & Intangible Assets	7,500	7,645	7,500	7,500	15,145	15,000	(145)	(0.96%)
Grants	550,380	539,697	550,380	550,380	1,090,077	1,100,760	10,683	0.98%
Total Costs	\$8,402,865	\$9,058,090	\$9,366,492	\$9,382,842	\$17,460,955	\$18,749,334	\$1,288,379	7.38%
General Fund	2,478,359	2,734,220	2,905,162	2,867,731	5,212,579	5,772,893	560,314	10.75%
State Special	131,602	140,458	250,451	250,631	272,060	501,082	229,022	84.18%
Federal Special	5,792,904	6,183,412	6,210,879	6,264,480	11,976,316	12,475,359	499,043	4.17%
Total Funds	\$8,402,865	\$9,058,090	\$9,366,492	\$9,382,842	\$17,460,955	\$18,749,334	\$1,288,379	7.38%

Program Description

The role of the Quality Assurance Division (QAD) is to protect the safety and well-being of Montanans by monitoring and ensuring the integrity and cost-effectiveness of programs administered by the department. The Quality Assurance Division (QAD) fulfills this roll by providing comprehensive services that:

- Protect the safety of clients that utilize Montana's health care, day care, and residential providers through licensure of 2,358 facilities. Of these facilities, 293 are certified by QAD for participation in the Medicare and Medicaid programs;
- Detect and investigate abusive or fraudulent practices affecting the Medicaid, TANF, and Supplemental Nutrition Assistance (Food Stamp) programs, and initiate recovery efforts;
- Reduce Medicaid costs by identifying other insurers or parties responsible for paying a client's medical expenses;
- Provide both internal and external independent audits for DPHHS programs;
- Provide independent fair hearings for clients and providers participating in DPHHS programs;
- Monitor and evaluate health maintenance organizations for quality assurance and network adequacy;
- Maintain Certified Nurse Aide Registry;
- Approve and monitor Nurse Aide Training programs;
- Operate the Certificate of Need (CON) Program; and
- Operate the internal Health Insurance Portability and Accountability Act function for the Department.

The division has field offices in Anaconda, Billings, Bozeman, Great Falls, Havre, Hinsdale, Kalispell, Miles City, and Missoula.

Statutory authority: 42 U.S.C. 1818 and 42 U.S.C. 1919; 45 U.S.C.; Title 50, Chapter 5, parts 1 and 2; Title 50, Chapter 5, part 11; Title 52, Chapter 2, part 7; and Title 53, Chapter 2, section 501 MCA; CFR 21, CFR 49, CFR 10; P.L. 102-359 (10-27-92).

Program Highlights

Quality Assurance Division Major Budget Highlights	
◆	The QAD 2011 biennium budget increases 7.4 percent or \$1.3 million as compared to 2009 biennium
◆	\$1.2 million of the increase is due to statewide present law adjustments
Major LFD Issues	
◆	Funding shifts of \$0.3 million are contained in statewide present law adjustments
◆	QAD's goal does not have specific measurements included as part of the objectives

Program Narrative

The Quality Assurance Division 2011 biennium budget request is 7.4 percent higher than the 2009 biennium. Half of the overall increase is generated from increases in personal services costs and the remaining half of the increase is for operating expenses related to lien and estate recoveries, computer system enhancements for surveillance, and workload increases initiated by the Centers for Medicare and Medicaid (CMS) requirements for federal programs. A discussion on these components is included in decision packages for present law adjustments and new proposals further in this section.

The 2007 Legislature approved \$0.7 million to implement the Medicaid Payment Error Program (PERM) required by the federal Improper Payments Information Act. Funds support 8.00 FTE performing retrospective reviews of Medicaid and Children's Health Insurance Program (CHIP) eligibility and medical necessity of services. Each state is required to estimate improper payments in Medicaid and CHIP. PERM testing is conducted every three years. The reviews require approximately two years to complete. The final results for Montana will be published in the U.S. Department of Health and Human Services performance and accountability report in November 2009. The next PERM review for Montana would begin October 1, 2010 or three months into FY 2011.

The 2007 Legislature approved utilizing the PERM staff to conduct focused reviews of eligibility for high cost, complex Medicaid cases during the time periods when staff is not conducting PERM reviews. The first of the focused reviews will be started in FY 2010. Further information is included in the funding discussion.

2009 Biennium Major Goals

The following provides an update of the major goals monitored by the Legislative Finance Committee (LFC) during the 2009 interim.

The LFC monitored the overall program goals to:

- Implement the Payment Error Rate Measurement (PERM) process as required by the CMS
- Take all reasonable measures under the Social Security Act to ascertain the legal liability of "third parties" for health care items and services provided to Medicaid recipients
- Provide timely and impartial hearings and decisions for adversely affected parties disputing facts and/or law involving DPHHS administered programs
- Provide timely and impartial Informal Dispute Resolutions (IDR) conferences and recommendations for nursing home facilities disputing DPHHS cited deficiencies

Status

The goal to implement the PERM process as required by CMS is measured by the following:

- Complete the required number of reviews pursuant to the federal guidelines
- Monthly review of 84 active cases and 34 negative cases for Medicaid and CHIP
- Complete the cases in 100 days from the date sampled and report the results to CMS

To date, the QAD has completed the reviews required by CMS. However, this is an ongoing process and additional reviews are required throughout the PERM process. QAD has completed 1,060 eligibility reviews within the federal timeliness guideline of 150 days. Of that, 95 percent of the cases were completed within the internal guideline of 100 days and 100 percent within 120 days.

The goal to take all reasonable measures under the Social Security Act to ascertain the legal liability of “third parties” for services to Medicaid recipients was measured using the following:

- Evaluate and improve the systems for the identification of Medicaid recipients with Medicare and/or other health insurance
- Maintain the number of people with Medicaid and Medicare subject to change in Medicaid enrollment
- Increase the number of Medicaid recipients with other health insurance 1 percent per year
- Ensure Medicaid health care costs are avoided by requiring other health insurance companies pay before Medicaid
- Increase the Medicaid cost avoidance per person with Medicare and/or other insurance by 5 percent per year

QAD is able to access information on dually eligible recipients through CMS data systems. CMS systems ensure Medicaid cost avoidance through edits which require Medicare to pay for the services prior to Medicaid making payments. QAD staff work to ensure other insurance coverage pays for services prior to Medicaid making payments to providers.

QAD measurements for the objectives included the total amount of cost avoidance, which increased by 4 percent between FY 2007 and FY 2008, and the average monthly amount of costs avoidance, which increased by 5 percent from \$6,231 to \$6,552. Another measurable objective, the percentage of Medicaid recipients with other health insurance, decreased by 11 percent in FY 2008. QAD took over the discovery process for determining which Medicaid recipients have third party insurance coverage in FY 2006. In FY 2008, even though the number of Medicaid recipients identified with third party insurance coverage decreased by 11 percent, the cost avoidance per person increased by 0.3 percent.

The goal to provide timely and impartial hearings and decisions for adversely affected parties disputing facts and/or law involving DPHHS administered programs had two measurable objectives:

1. Maintain fair and impartial Office of Fair Hearings decisions within state and federal guidelines as measured by appeals received; and
2. Maintain a 90 percent timely decision percentage for all IDR recommendations within statutory timelines for the calendar year.

QAD reported that 98 percent of hearing decisions and orders were rendered in a timely manner as required by state and federal statutory guidelines in FY 2008. The division did not report on the number of appeals received, which was the measurement for maintaining fair and impartial decisions.

Challenges

The goal to provide timely and impartial informal dispute resolutions (IDR) conferences and recommendations for nursing home facilities disputing DPHHS cited deficiencies was measured using the following objectives:

- Maintain fair and impartial Office of Fair Hearings IDR decisions within state guidelines
- Maintain a 90 percent timely decision percentage for all IDR recommendations within statutory timelines for the calendar year

QAD reported 50 percent of IDR opinions were rendered in a timely manner in calendar year 2008 as of August 31, 2008. Staff shortages resulting from vacations, sick leave, and retirement within the Office of Fair Hearings shifted the

IDR presiding officer to administrative hearing cases rather than informal disputes. QAD referred a number of the hearing appeals to the Department of Justice until the Office of Fair Hearings is fully staffed. For a discussion of retention and recruitment issues of the division refer to the Personal Services section.

2011 Biennium Major Goals

The division is required by law to submit goals and measurable objectives as part of the budgeting process. The LFD recommends that the legislature adopt specific goals and corresponding objectives for monitoring during the interim. QAD submitted only one goal for the 2011 biennium:

Continuous improvement in DPHHS's efforts to protect the health, safety, and well being of Montanans by:

- Maintaining an environment that promotes Montana health care facilities, youth care facilities, child care facilities, and facilities serving individuals with physical and developmental disabilities to be in compliance with applicable laws and regulations
- Provide program integrity oversight, audit, and impartial decisions that enhance the effectiveness and efficiency of department operations.

Objectives for the goal include:

- Perform licensure inspections and certification surveys for the respective facilities and providers as established within the applicable state and federal laws
- Provide program integrity oversight and maximize cost avoidance and recoveries for applicable agency programs in accordance with state and federal laws
- Conduct independent audits of agency programs and services and provide agency management with evaluations of internal work processes
- Provide timely and impartial administrative hearings and decisions and Informal Dispute Resolution (IDR) conferences and recommendations.

LFD ISSUE

QAD Does not Include Specific Time-Bound Measurements Within its Objectives

QAD provides measurements for the objectives are part of their overall submission of goals and objectives. However, the majority of the items listed as measurements do not include an actual measurement for the 2011 biennium. For example, to measure licensure inspections and certification surveys for the respective facilities two of the measurements are:

- Perform licensure inspections and issue licenses for the respective facilities as established within state law
- Perform all recertification surveys for certified health care facilities according to federal and state schedules

The objectives are for two of QAD bureaus, the Licensure and Certification bureaus. The Licensure Bureau proposes appropriations of \$2,155,656 and \$2,160,192 in FY 2010 and FY 2011, respectively, in part to support 30.96 FTE. The Certification Bureau proposes appropriations of \$2,567,926 and \$2,570,432 in FY 2010 and FY 2011 with 31.88 FTE. The number of facilities that QAD licenses increased 8 percent between FY 2006 and FY 2008, from 2,178 facilities to 2,358, the number of health care facilities surveyed to participate in either Medicare or Medicaid remained constant at 293. QAD is requesting \$118,000 in additional federal funding for the biennium to meet the workload demand outlined in CMS task orders addressing increased numbers of health care facility surveys but is not requesting additional appropriations for licensure above those included in statewide present law adjustments. Without including measurements such as:

- the total number of facilities licensed and surveyed in Montana
- the number of licensure inspections each year of the biennium
- the number of certification surveys each year of the biennium
- the percentages of certification surveys completed in the required timelines in the current biennium
- the percentage of licensure inspections completed within required timelines in the current biennium
- the estimated percentage of certification surveys to be completed in the required timelines in the 2011 biennium
- the estimated percentage of licensure inspections to be completed in the required timelines in the 2011 biennium

**LFD
ISSUE (CONT.)**

The legislature does not appear to have sufficient information to determine the need for the additional federal appropriations or the adequacy of the current appropriations as they relate to performing licensure inspections and certification surveys. For example, with specific measurements the legislature would be able to answer the following questions related to the requested appropriations:

- Did the Licensure Bureau achieve 100 percent of their licensure inspections in a timely manner in FY 2008 in spite of an 8 percent increase in total facilities?
- If not, what percentage did it achieve?
- Does the proposed budget support this same percentage of inspections completed in a timely manner, a lower or higher percentage?
- If the percentage is less than 100 percent, what additional support would be required to achieve 100 percent completion in a timely manner?
- Are there federal incentives or punitive assessments for failure to meet a certain percentage of timely surveys?

The other measurable objectives submitted for this division also lack specific measurements to assist the legislature in making a decision as to the adequacy and necessity of the appropriations.

The legislature may wish to discuss with the division appropriately written objectives to the goal.

Funding

The following table shows program funding, by source, for the base year and for the 2011 biennium as recommended by the Governor.

Program Funding	Base FY 2008	% of Base FY 2008	Budget FY 2010	% of Budget FY 2010	Budget FY 2011	% of Budget FY 2011
01000 Total General Fund	\$ 2,478,359	29.5%	\$ 2,905,162	31.0%	\$ 2,867,731	30.6%
01100 General Fund	2,478,359	29.5%	2,905,162	31.0%	2,867,731	30.6%
02000 Total State Special Funds	131,602	1.6%	250,451	2.7%	250,631	2.7%
02034 Earmarked Alcohol Funds	66,496	0.8%	68,104	0.7%	68,202	0.7%
02380 02 Indirect Activity Prog 08	12,610	0.2%	12,987	0.1%	13,015	0.1%
02497 6901-Lien & Estate - Sltcd	27,033	0.3%	118,533	1.3%	118,533	1.3%
02566 Medical Marijuana	25,463	0.3%	50,827	0.5%	50,881	0.5%
02789 6901-Chip/Mcha Tobacco Sett Fd	-	-	-	-	-	-
03000 Total Federal Special Funds	5,792,904	68.9%	6,210,879	66.3%	6,264,480	66.8%
03096 Discretionary Child Care	571,775	6.8%	570,757	6.1%	570,654	6.1%
03181 Paris State Partnership Grant	-	-	-	-	-	-
03251 Child Care Admin	114,816	1.4%	114,612	1.2%	114,592	1.2%
03288 Med Transf Grnt Lien & Est Rec	-	-	-	-	-	-
03303 Title 18 Clia	75,791	0.9%	81,557	0.9%	81,716	0.9%
03335 Fda Mammography Inspections	38,834	0.5%	38,834	0.4%	38,834	0.4%
03426 Chip Program Fed	111,953	1.3%	(5)	0.0%	126,354	1.3%
03530 6901-Foster Care 93.658	89,949	1.1%	89,253	1.0%	89,461	1.0%
03580 6901-93.778 - Med Adm 50%	682,854	8.1%	1,051,159	11.2%	967,242	10.3%
03597 03 Indirect Activity Prog 08	1,407,139	16.7%	1,406,791	15.0%	1,411,536	15.0%
03934 Title 19	663,917	7.9%	725,039	7.7%	727,072	7.7%
03935 Title 18	1,451,465	17.3%	1,543,107	16.5%	1,547,094	16.5%
03948 T-19 Obra Nurse Aid	28,909	0.3%	22,995	0.2%	23,140	0.2%
03960 Rural Hospital Flexibility Prog	555,502	6.6%	566,780	6.1%	566,785	6.0%
Grand Total	\$ 8,402,865	100.0%	\$ 9,366,492	100.0%	\$ 9,382,842	100.0%

The Quality Assurance Division is funded primarily with federal funds (66.8 percent of the 2011 biennium appropriation). General fund supports about 30.6 percent of program costs with the remaining 2.7 percent of budgeted expenditures supported by state special revenues.

General fund supports a portion of the administrative functions, the state match for Medicaid and Title IV-E (foster care) eligible costs, child care and community residential licensure, fair hearings, informal dispute resolutions, mental health evaluations, and program compliance; and the full cost of radiological equipment testing, certificate of need determinations, and state licensure.

LFD ISSUE

General Fund Support Increases Above the 2008 Base for a Number of Functions

The executive proposes increasing the percentage of general fund support for the following functions:

- Division administration
- Fair hearings
- Licensure administration
- Community residential licensure
- Audit bureau

The functions listed above are supported through the cost allocation plan DPHHS has with the federal government. The cost allocation impacts the way the projects are funded, and percentages are changed quarterly based upon the cost allocation reports received from BFS. The methodology QAD utilized for funding the indirect costs for the 2011 biennium is based upon averages of all of the QAD indirect funded programs. Using the averages for the budget results in a significant increase to the costs supported by general fund.

The funding switch is included as part of the adjusted base, statewide present law adjustments, and the decision package for rent funding. Statewide present law adjustments do not include specific decision points for the legislature to determine its support for increased general fund support for the functions discussed above. Figure 30 shows the FY 2008 base general fund as compared to the increased general fund support included in the executive's proposed budget.

As shown in Figure 30, the funding switch increases the general fund support to QAD by \$179,166 over the 2011 biennium. \$3,241 of funding switch is included in the rent funding, while the remainder is part of either base or statewide present law adjustments. State special and federal funding support was decreased by the same amount in the listed functions.

Option

The legislature may wish to request a separate decision package to consider the funding switch included in the base and statewide present law adjustments.

Figure 30 Quality Assurance Division Changes to Base Funding Include in Adjustments			
	Actual FY 2008 General Fund %	Proposed 2011 Biennium General Fund %	Changes to General Fund
Division Administration	31.32%	40.00%	\$97,765
Indirect Dispute Resolution	12.83%	12.50%	-40
Fair hearings	37.47%	40.00%	19,741
Licensure administration	36.52%	40.00%	5,875
Program Compliance	43.60%	40.00%	-34,895
HIPPA	45.11%	40.00%	-1,022
SURS	24.99%	25.00%	123
PC Bureau Administration	43.76%	40.00%	-5,298
Audit Bureau	30.19%	40.00%	96,917
Total Funding Switched			<u>\$179,166</u>

LFD COMMENT

Child care licensure funding also changes through statewide present law adjustments but for a different reason; the federal funding for the licensure reviews is not keeping up with program costs. Child care licensure Title IV E federal funding is transferred from the Human and Community Services Division to provide for licensure of foster care homes. While the number of foster care homes has not increased significantly, the Title IV-E amount has decreased over the last several years. Personal service costs make up the majority of the program costs. While federal funding has declined, personal service costs for the program have increased resulting in increased general fund for the program. In the 2011 biennium, the executive proposes increasing the percentage of general fund supporting the program from 19.18 percent to 27.89 percent or \$165,600 over the biennium.

State special revenue supporting the division includes alcohol taxes allocated to DPHHS, lien and estate recoveries for Medicaid services, medical marijuana registry fees, and indirect cost recovery funds. Alcohol taxes fund staff and operational costs for chemical dependency program licensure. Lien and estate funds pay for services to pursue recoveries for the costs of Medicaid, mainly for nursing home services. Medical marijuana registry fees cover the cost of administering the registry.

There are 12 separate federal funding sources in the Quality Assurance Division budget request. Some of the federal sources support more than one function. For instance, Medicaid funds support: 1) third party recovery; 2) the surveillance, utilization, and review unit; 3) the nurse aide registry for nursing homes; and 4) the Department of Justice fraud surveillance contract. Medicaid and Medicare funds support certification of services such as nursing home and home health services. CHIP funds support PERM testing in FY 2011. Medicare CLIA (clinical laboratory improvement amendments) pays for reviews of some laboratories in order to qualify the labs for federal funding. The rural hospital flexibility grant supports grants and other activities for local hospitals to maintain their critical access hospital status. Childcare discretionary and administrative funding supports licensure of childcare facilities. Title IV E pays the federal share of costs of licensing community residential facilities to provide foster care. Mammography funds pay for contracted inspections of mammography equipment. Federal indirect funding represents the federal share of allocated administrative costs, such as those for fair hearings and administrative costs.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Summary by Category								
Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget	Budget Fiscal 2010	Budget Fiscal 2011	Biennium Fiscal 10-11	Percent of Budget
Base Budget	2,478,359	2,478,359	4,956,718	85.86%	8,402,865	8,402,865	16,805,730	89.63%
Statewide PL Adjustments	331,789	338,650	670,439	11.61%	604,068	621,610	1,225,678	6.54%
Other PL Adjustments	65,764	27,322	93,086	1.61%	93,016	103,518	196,534	1.05%
New Proposals	29,250	23,400	52,650	0.91%	266,543	254,849	521,392	2.78%
Total Budget	\$2,905,162	\$2,867,731	\$5,772,893		\$9,366,492	\$9,382,842	\$18,749,334	

Present Law Adjustments

The “Present Law Adjustments” table shows the primary changes to the adjusted base budget proposed by the Governor. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
-----Fiscal 2010-----					-----Fiscal 2011-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				873,348					889,715
Vacancy Savings				(287,470)					(288,123)
Inflation/Deflation				18,043					19,670
Fixed Costs				147					348
Total Statewide Present Law Adjustments				\$604,068					\$621,610
DP 80001 - Annualization FTE Utilization									
0.25	0	0	13,748	13,748	0.25	0	0	13,753	13,753
DP 80006 - Address CMS Task Orders and Workload									
0.00	0	0	59,000	59,000	0.00	0	0	59,000	59,000
DP 80007 - PERM Funding									
0.00	56,175	0	(56,175)	0	0.00	12,754	0	(12,754)	0
DP 80008 - Rent Funding									
0.00	9,589	222	10,457	20,268	0.00	14,568	337	15,860	30,765
Total Other Present Law Adjustments									
0.25	\$65,764	\$222	\$27,030	\$93,016	0.25	\$27,322	\$337	\$75,859	\$103,518
Grand Total All Present Law Adjustments				\$697,084					\$725,128

Program Personal Services Narrative

The following information is provided so that the legislature can consider various personal services issues when examining the agency budget. It was submitted by the agency and edited for brevity by the LFD.

- **Market Rate** - QAD estimates it will be at 87 percent of the market relative to the 2008 market survey after implementing the HB 13 pay adjustments. This is below the overall agency target of 100 percent. QAD experiences some difficulties regarding recruitment due to market ranges for positions. For some positions in QAD the specific job skills are only available from a small applicant pool, such as workers with health care experience in nursing, individuals with auditing skills and analytical skills, and individuals willing to travel for the state. QAD has made some progress in the progression to market based upon the 2006 market survey data.
- **Vacancy** - QAD does have some occupations that experience turnover that can result in extended vacancy rates. Occupations such as Facility Surveyors and Compliance Specialists have historically been positions in QAD that experience turnover. Facility Surveyors, which are mostly nurses and other health care professionals, are required to travel and perform difficult tasks associated with the job. Compliance Specialists are subject to outside market competition, wage issues, and experience regarding the complexities of the public programs administered by the agency. There has been a minimal impact to division operations as positions have been filled as soon as possible after notification of a person vacating a position. The vacancies do result in increased workload for other staff, and a prioritization of duties and projects that ultimately result in tasks being delayed.
- **Legislatively applied vacancy savings** - The program has operated within the 4 percent vacancy savings. The program has experienced some positions that have been left open for a period of time due to issues regarding recruitment. This turnover has generated sufficient vacancy savings.
- **Pay Changes** - Six positions were given pay increases outside of HB 13. The increases were to create equity within the division. The increases were funded using vacancy savings.
- **Retirements** - 77 employees (65 percent of total program workforce) will be eligible for retirement. Based on current trends and projections QAD estimates that 14 employees will retire with an anticipated compensated absence liability of \$114,072. The division is concerned about the planned and potential retirements of several staff members and is taking steps for knowledge sharing and cross training.

DP 80001 - Annualization FTE Utilization - The executive proposes increased federal support of \$27,501 for 0.25 FTE, funded through the Montana Rural Hospital Flex Grant, to manage increased functions and oversight.

DP 80006 - Address CMS Task Orders and Workload - This request is for \$118,000 in additional federal funding for the biennium for the Certification Bureau to meet the workload demand outlined in the CMS task orders addressing increased technology requirements, increased emergency preparedness planning, and increased number of health care facility surveys.

DP 80007 - PERM Funding - The PERM audits are performed every three years and take approximately two years to complete. In the third year of the cycle, staff does not perform PERM related reviews. FY 2010 is the third year of the current PERM cycle. PERM staff will conduct reviews of eligibility for high cost, complex Medicaid cases in FY 2010. In FY 2011, PERM staff will begin the second PERM review for both the Medicaid and CHIP programs. This decision package provides for the changes in funding due to the shifting duties of the staff. The executive proposes an increase of \$68,929 in general fund and an offsetting reduction in federal funds over the biennium and asks that the funding be non-restricted.

DP 80008 - Rent Funding - This decision package addresses rent increases that are built into the lease agreements for staff offices around Montana.

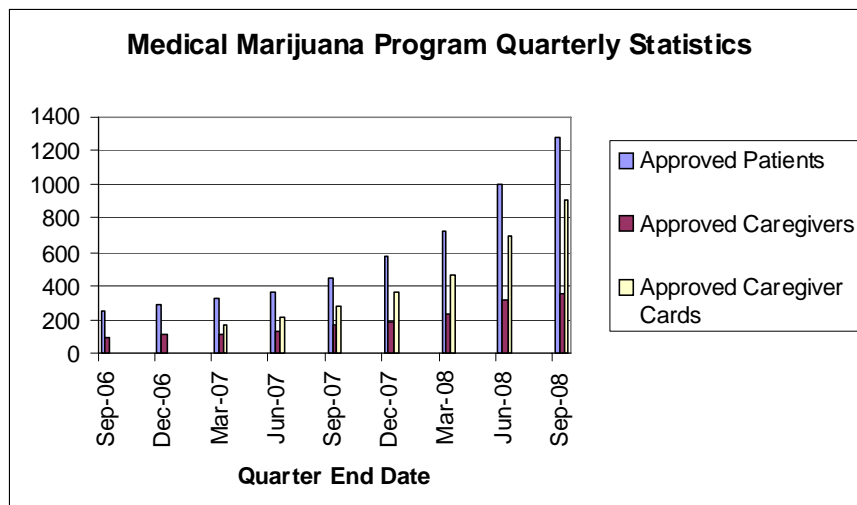
New Proposals

New Proposals										
-----Fiscal 2010-----						-----Fiscal 2011-----				
Program	FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 80002 - FTE For Medical Marijuana Program										
08	0.50	0	25,043	0	25,043	0.50	0	25,049	0	25,049
DP 80009 - Lien and Estate Funding										
08	0.00	0	91,500	91,500	183,000	0.00	0	91,500	91,500	183,000
DP 80010 - Data Systems Maintenance										
08	0.00	0	0	0	0	0.00	23,400	0	23,400	46,800
DP 80011 - CHIMES Enhancements										
08	0.00	29,250	0	29,250	58,500	0.00	0	0	0	0
Total	0.50	\$29,250	\$116,543	\$120,750	\$266,543	0.50	\$23,400	\$116,549	\$114,900	\$254,849

DP 80002 - FTE For Medical Marijuana Program - The Quality Assurance Division is requesting an additional 0.50 FTE for the Medical Marijuana Program (MMP) to address the increased workload MMP is experiencing due to significant growth in the number of approved patients and caregivers in the program. This request is for \$50,092 in state special funds.

The following information is provided to that the legislature can consider various performance management principles when examining this proposal. It is as submitted by the agency, with editing by LFD staff as necessary for brevity and/or clarity.

Justification: Since Montana voters approved the Medical Marijuana Act, the program has increased from 176 patients in FY 2005 to 1,006 patients registered in FY 2008. In addition to this increase, the program has also experienced an increase of 124 percent in the number of caregivers on the registry in FY 2008, from 139 to 311. In the four months since the beginning of FY 2009, 416 new patients have been approved for the program, and as of the end of October 2008 the MMP registry had 1,424 patients and 413 caregivers on the registry. See chart on the following page



The growth over the past year has placed significant administrative burden on the Quality Assurance Division to process applications and account for changes in the designation of caregivers. Each year registered patients must renew their status on the registry and pay a fee of \$50.00 for the administration of the registry.

QAD has 0.50 FTE designated for the administration of the MMP. The person responsible for this program is designated as half time on the MMP and half time on the state licensing program for healthcare providers. With the increased workload under the MMP this individual has been working almost full time on the MMP to process all the patient applications and approve caregivers within the statutory timelines. This has resulted in workload issues for the state licensing program that are being addressed by authorization of overtime or compensatory time, or the hiring of temporary staff.

The MMP has grown so much over the past year that it needs the attention of a full time FTE to handle the workload that is expected in the next biennium. QAD has adjusted the workload to address the current and short term needs of the program and with the expected continued growth in the program; a long term solution is needed to make the MMP administration a full time position.

Project Outcome(s):

1. A full time licensing tech allows for program continuity for public inquiry, patient and caregiver contact, law enforcement inquiry and for the processing and approval of registrants and their caregivers, to print and mail registration cards.
2. Designating a full time FTE the program can help ensure registrant's confidentiality, as it is a misdemeanor offence for anyone to broach any registrant's confidentiality.
3. Designating a full time FTE limits the number of staff that may need access to the registry and the administration of "confidentiality statements" for staff that have access to the registry. Please note that temporary staff cannot respond to any law enforcement or patient inquiries. The Montana Medical Marijuana Act permits "employees" of the department to access information on the data base only if their job requires it.

Performance Criteria:

Progress toward meeting each milestone is measured by the immediate completion and implementation of each listed milestone.

Milestones: Key activities to the proposal will be implemented immediately on approval. No staff development or training is required as the individual responsible for the administration of the MMP will be assigned full time to the MMP.

1. Ensure compliance with the timelines established in statute to process, approve, and issue a MMP registry card.
2. Ensure no patient is required to wait for program approval because the program staff is unable to process application in a timely manner
3. Ensure full time staffing of the program to address correspondence and applications in a timely manner.
4. Ensure a full time contact for law enforcement regarding registry information that is available during state government's establish business hours of 8 a.m. – 5 p.m., M-F.

FTE: The work will be performed by the incumbent licensing tech presently performing the work of the registry at 0.50 FTE. There will be no recruitment, hiring, or training associated with this request for the MMP. QAD will take the 0.50 FTE, currently included in the job profile of the incumbent for state licensure functions, and hire this 0.50 FTE for the administration of the state licensure activities. This is expected to eliminate the need for overtime, compensatory time, or the need for temporary workers to handle the workload of the state licensure program.

Funding: The Medical Marijuana Act at 50-46-210 MCA provides that the MMP is self funded from participant fees of approved patients for all operations cost. Therefore, there is no general fund cost and the MMP does not utilize federal funding. There is no new revenue source as the program will utilize existing balances from participant fees and future participant fees to fund this increased staffing cost for the program. As of October 2008, the balance from existing participant fees is approximately \$40,000 and projected revenue from participant fees for FY 2009 is expected to be approximately \$95,000.

Obstacles:

1. Authority to expand the present 0.50 FTE of the licensing technician to fulltime for the MMP and separate out the remaining 0.50 FTE and hire new staff to cover the existing workload for the state licensing program.
2. Expected growth in the MMP continues to put pressure on QAD to respond to the program administrative demands and correspondence on a normal 8-5 basis, 5 days a week.
3. If the MMP program continues to experience exponential growth (see chart), additional staff may be needed in the 2013 biennium to efficiently administer the program.

Risk:

1. Without the additional 0.50 FTE the Quality Assurance Division would have difficulty being responsive to law enforcement inquiries for registrant verification in a timely manner. Alternatively, law enforcement officials may seek and implement a search warrant for a premise because of the inability to verify a registrant or caregiver with the registry.
2. Without the additional 0.50 FTE approved patient applications could be delayed in processing resulting in delays in obtaining MMP registry cards that could have a negative impact in that patients ability to lawfully utilize medical marijuana to address their medical condition. Law enforcement may begin a prosecution of someone in the process but not yet placed on the registry
3. Caregiver designations and changes could be delayed resulting in problems for a patient and may create law enforcement issues regarding the amount of medical marijuana a caregiver can lawfully possess under the statute.
4. A delay in processing a care giver or patient applications could result in legal problems for either the applicant and/or the caregiver.

DP 80009 - Lien and Estate Funding - The 2007 legislature approved \$366,160 in one-time-only funding to finalize 76 lien and estate recovery cases that had been outstanding for many years. In FY 2008, the agency closed 53 cases and collected over \$616,000. As of October 2008, there are 62 cases outstanding. The executive proposes continuing this program and requests \$183,000 in state special revenue and \$183,000 federal funds for the biennium.

**LFD
ISSUE**

FY 2008 Program Costs and Projected 2011 Biennium Workload do not Appear to Support Requested Funding

In FY 2008, QAD expended 43.7 percent or \$79,961 of the \$183,080 appropriated for the program. During this same period, QAD closed 53 cases and collected \$616,539 in lien and estate recoveries which offset Medicaid costs. In FY 2008 over 80 percent of the program costs were for legal fees. The outstanding number of cases has decreased from 76 in FY 2006 to 62 in FY 2009. The executive is proposing \$183,000 each year of the biennium or 56.3 percent more than was used in FY 2008 for fewer cases.

Options: The legislature may wish to consider reducing the appropriations to align it with actual program costs in FY 2008.

DP 80010 - Data Systems Maintenance - The executive proposes \$46,800 for the biennium, including \$23,400 in general fund and \$23,400 in state special funds, to update and maintain various databases and systems utilized by the Third Party Liability (TPL) unit. The TPL unit is responsible for coordinating with other liable third parties to ensure that Medicaid is the payer of last resort. In order to accomplish these duties the TPL unit relies on various databases and systems to identify liable companies.

DP 80011 - CHIMES Enhancements - Medicaid Eligibility Quality Control (MEQC) and PERM are federally mandated Medicaid recipient audits that require extensive analysis, monitoring, tracking, and correspondence. QAD proposes \$29,250 general fund and \$29,250 federal funds to build a MEQC/PERM module within CHIMES. These funds will be used to automate functions that are currently performed manually and will be used to develop an improved tracking and reporting system to replace "home grown" spreadsheets used to monitor activity. By expending these funds the department will be able to improve efficiencies and replace vulnerable data systems (spreadsheets) with a maintained and supported system.